

Members

Rep. Dennis Tyler, Chairperson
Rep. Dan Stevenson
Rep. Cleo Duncan
Rep. William Davis
Sen. Ron Alting
Sen. Brandt Hershman
Sen. James Arnold
Sen. James Lewis



RAIL CORRIDOR SAFETY COMMITTEE

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

James Sperlik, Fiscal Analyst for the Committee
Anne Haley, Attorney for the Committee

Authority: P.L. 114-2005

MEETING MINUTES¹

Meeting Date: September 25, 2009
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington St.,
Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Rep. Dennis Tyler, Chairperson; Rep. Dan Stevenson; Rep. Cleo Duncan; Rep. William Davis; Sen. Ron Alting; Sen. James Arnold; Sen. James Lewis.

Members Absent: Sen. Brandt Hershman.

Representative Dennis Tyler, Chairperson, called the meeting to order at 1:12 p.m. The committee members and staff introduced themselves. Prior to the agenda, the Chair recognized Representative Duncan. She told the committee that the Honda plant in Greensburg, IN, transports about 80% of its material by rail. Representative Duncan said that Honda asked Indiana Operation Lifesaver to help in getting the word out regarding rail safety. She said that there were many EMTs and other trained presenters who spoke to schools and other local organizations about rail safety.

The staff read the charge of the committee and said that no additional topics has been assigned by the Legislative Council. The committee is to operate under the rules adopted by the Legislative Council.

1. Updates from the Indiana Department of Transportation (INDOT) on the Rail Grade Crossing Improvement Fund and related activities of the INDOT Rail Division

Mr. Mike Riley, Director of the INDOT Rail Division, thanked the committee for the invitation to speak and distributed Exhibit 1. Exhibit 1 provided the basis for Mr. Riley's presentation. This exhibit details the types of projects eligible for funding from the Rail Grade Crossing Fund,

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

along with appropriations to the Rail Grade Crossing Fund. Exhibit 1 also contained information about Section 130-SAFETEA-LU federal funds. Section 130 funds provide a minimum level of funding to ensure that the most hazardous crossings are improved. Indiana's federal apportionment of Section 130 funds has averaged approximately \$7.167 M for the last three fiscal years.

State and National Data

Mr. Riley told the committee that for the last four full calendar years, Indiana has averaged about 142 incidents at rail grade crossings, along with an average of 16 fatalities per year

Indiana's total of 4,446 rail miles ranks it 9th in the country, with Texas ranked 1st with 10,804 total rail miles. Indiana ranks 4th in the number of public crossings with 5,970. Seventy-five percent of Indiana's crossings are public crossings; 54% of the crossings have active protection - lights, gates, or both. Indiana has 4.35% of the total public crossings in the country. This equates to 1.34 public crossings per rail mile.

With 122 rail-highway accidents in 2008, Indiana ranked second nationally behind Texas' 185 rail-highway accidents. In the same year, Indiana tied Illinois for second place with 15 rail-highway fatalities, while Florida lead the nation with 18.

Mr. Riley said the INDOT Rail Office has four employees. Its activities include industrial rail service, code enforcement, community and municipality contacts, participation in Indiana Operation Lifesaver, High Speed Rail, and the Midwest Regional Rail Initiative.

Discussion

Mr. Riley told the committee that high-speed rail is important to the state. He said that the state has participated in the Midwest Regional Rail Initiative since 1996, with a goal of bringing high-speed rail to the Midwest. In response to a question, Mr. Riley told the committee that a community can initiate a crossing closure. In addition, Mr. Riley said that crossing closures are difficult because people do not want to drive out of the way. Mr. Riley said that new applications for funding a Rail Grade Crossing Fund project can now be completed on-line. The grantee has one year to complete the project; however, the grantee may request an extension from INDOT.

Mr. Riley told the committee that there is no review process after one year to determine if the project is still needed; however, if at the end of 12 months and no extension has been received and the project remains uncompleted, the funds for the project are de-obligated. In addition, Mr. Riley said that if a project comes in under budget, the remainder of the award is de-obligated.

In response to a question concerning the expansion of an industrial park to include a railroad crossing, Mr. Riley said that Indiana Code requires a petition for the installation of a new public railroad crossing be sent to INDOT's Rail office. INDOT reviews the petition and determines the best way to proceed. If the crossing is a private crossing, the petition goes to the Indiana Economic Development Council (IEDC) and INDOT is not involved.

Reiterating an earlier comment, Mr. Riley said that if a project has not been completed within one year and has not received an extension from INDOT, the funds are de-obligated and returned to the Rail Grade Crossing Improvement Fund.

2. Report from Indiana Operation Lifesaver (INOL) - Jessica Feder, Executive Director

Ms. Feder's PowerPoint presentation is contained in Exhibit 2, Operation Lifesaver - Indiana. In addition, Ms. Feder distributed Exhibit 3, Indiana Railroad Laws, and Exhibit 4, Key Safety Tips

at Highway Rail-Grade Crossings.

INOL is a 501 9c) (3) nonprofit public highway safety program dedicated to reducing deaths and injuries at highway-rail grade crossings and along railroad rights-of-way. INOL was established in 1984 and is a member of the national organization, Operation Lifesaver, Inc. INOL has a board of directors consisting of key safety partners, government agencies, and highway and transportation organizations, as well as the nation's railroads.

The INOL program strives to improve driver and pedestrian behavior at railroad crossings by encouraging compliance with traffic laws relating to crossing signs and signals. To accomplish its mission, INOL promotes the three **E's** - **Education**: INOL strives to increase public awareness about the dangers around the rails. **Enforcement**: INOL promotes active enforcement of traffic laws relating to crossing signs and signals and private property laws related to trespassing. **Engineering**: INOL encourages continued engineering research and innovation to improve safety of railroad crossings.

State and National Statistics

INOL reports that statewide, 43 railroads operate more than 5,300 miles of track, and there are over 6,000 crossings, both public and private throughout Indiana. Freight lines carry in excess of 311 million tons of freight annually, serving ports and intermodal terminals across the state. Further, INOL reports that the greatest concentration of conflicting railroad and highway traffic is concentrated in the five northwest counties: Lake, Porter, LaPorte, St. Joseph, and Elkhart. In addition, INOL reports that in 2008 Indiana experienced 8 trespassing deaths and 11 injuries. For 2008, the Indiana counties with the most grade crossing collisions were Lake, St. Joseph, Marion, LaPorte, Elkhart, and Gibson.

According to INOL, in 2008, nationally, at least 286 people were killed and 913 were seriously injured in 2,373 highway-rail grade crossing collisions (combined for public and private crossings). Further, at least 458 people were killed and 426 were injured while trespassing on railroad rights-of-way and property. Approximately every two hours, either a vehicle or pedestrian is struck by a train in the nation, or 12 incidents per day.

Ms. Feder reported that a motorist is 20 times more likely to die in a crash involving a train than in a collision involving another motor vehicle. In addition, Ms. Feder told the committee that the stopping distance for an average freight train traveling at 55 mph is a mile or more and that the majority of highway-rail crashes occur when the train is traveling less than 30 mph. In addition, Ms. Feder told the committee that over 50% of highway-rail crashes occur at crossings with active warning devices such as gates and lights.

INOL Activities in 2009

Ms. Feder's PowerPoint presentation listed about 20 activities of the INOL in 2009. Among them were: creating a new website (www.inol.org); having a booth at the State Fair; meeting with key partners and agencies; re-establishing a board of directors; working with the State Police; submitting and receiving grants to help stabilize INOL's financial situation; and conducting Rail Safety Week (August 30th through September 5th).

Discussion

In response to committee questions, Ms. Feder said that INOL has been in contact with the Indiana Sheriff's Association. Further, Senator Arnold suggested that INOL might consider contacting the Indiana Professional Firefighters' Association as well, since firefighters have exposure to accidents at railroad crossings.

The staff was instructed to email the electronic version of Ms. Feder's presentation to committee members.

3. Steve Watson, Consultant CSX Railroad, Tax Credits for Infrastructure Improvement

Mr. Watson distributed Exhibit 5, Maintenance Costs for Signals at Public Grade Crossings. Mr. Watson said that Indiana has 5,790 public highway grade crossings. Of these, 3,249 are equipped with electronic flashing lights or a combination of flashing lights and gates to signal to motorists that a train is approaching the crossing.

Many of the signals were installed under federal grants to the state or local highway authority (referred to as "Section 130") that cover 80% of the cost. The remaining 20% is the responsibility of the state or local highway authority. Mr. Watson said that after installation, the maintenance and replacement of the signal systems is the sole responsibility of the railroad.

Mr. Watson said that the average annual signal maintenance costs are about \$3,200 per crossing, resulting in an annual expenditure of \$10.4 M by Indiana's railroads. This does not include replacement costs after the 25-year average life of the signal equipment has expired.

Mr. Watson told the committee that the U.S. Department of Transportation estimates that the demand for rail freight transportation will almost double over the next 25 years. Mr. Watson said the current historical earnings of railroads are not sufficient to fully cover those costs.

Mr. Watson cited Illinois, Ohio, and Kentucky as states which have granted railroads property or income tax credits for maintenance or investment in track. He said Indiana has no such program.

Mr. Watson then proposed that the committee recommend legislation which grants railroads a state income tax credit for the costs of the maintenance of electronic grade crossing warning devices such as flashing lights. In addition, Mr. Watson said that it is local units of government which petition for the installations of the warning systems, but that railroads maintain them. He said that there may be some federal stimulus funds for freight rail infrastructure.

Commenting on state funds available to railroads, Mr. Watson mentioned the Industrial Rail Service Fund (IRSF), which is used by short line railroads for some projects. In answer to a committee question, Mr. Watson said that the Federal Railroad Administration (FRA) controls much in the way of rules and regulations for the operation of railroads in this country, with very little coming from the states.

Mr. Tom Fruechtenicht, representing the Indiana Rail Transportation Group, a volunteer association of Class 1, regional railroads, and short line railroads, addressed the committee. Commenting on the \$10.4 M spent by railroads on lights and gates, he said that the majority of those funds are spent by and for Class 1 railroads. Mr. Fruechtenicht said that short lines have fewer crossings, but very limited budgets. He said that the IRSF, supported by a portion of the state Sales Tax, generates about \$2 M annually.

Mr. Paul Giley, representing Norfolk Southern Railroad, agreed with Mr. Watson about the proposed tax credit and said that Section 130 funds are being debated in Washington at this time and may dry up.

4. Jeff Bainter, Northeast Region Legislative Coordinator for the Brotherhood of Maintenance Way Employees, presentation on other railroad track equipment

Mr. Bainter told the committee that he supports the proposed concept for a tax credit. Mr. Bainter distributed Exhibit 6. Mr. Bainter said that he is proposing to amend IC 9-21-8-39 and IC 9-21-8-40. Basically, these code cites provide that a motor vehicle must yield for trains at grade crossings.

The amendment would include "other track equipment" as well as trains. Mr. Bainter said "other track equipment" would include hi-rail vehicles and on-track roadway maintenance machinery.

Hi-rail vehicles are highway motor vehicles equipped with railroad running gear, which allows them to operate on the rails as well as the public highways. On-track maintenance machinery are specially designed machinery used specifically in the maintenance of the railroad. Mr. Bainter said the use of "other track equipment" has increased greatly in the last few years.

Mr. Bainter told the committee that he would gather data on the number of grade-crossing accidents involving hi-rail vehicles and on-track maintenance machinery. In addition, Mr. Bainter said that it will take time to educate the public regarding this proposed change. He suggested that if the proposed change passes, INOL could provide an outreach program and perhaps the information could be included in the Driver's Manual published by the Bureau of Motor Vehicles.

Mr. Steve Watson said that he supports Mr. Bainter's proposal. He said conceptually that it is a good idea.

Mr. Bill Verdier of the Brotherhood of Locomotive Engineers said he supports Mr. Bainter's proposal as well.

Mr. Kenny Edwards of United Transportation told the committee that he is working on something in the same vein as Mr. Bainter's proposal.

The Chair thanked everyone for their testimony and thanked the committee members for their attendance. The Chair tentatively scheduled a meeting for either October 8th at 1:00 p.m. or October 14th at 1:00 p.m.

Representative Tyler adjourned the meeting at 2:50 p.m.